

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

WHITE-CONLEE BUILDERS, LTD.	§	
Plaintiff	§	
	§	
v.	§	CIVIL ACTION NO. 5:19-cv-520
	§	
NATIONAL TRUST INSURANCE COMPANY	§	
Defendant	§	

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1332 and 1441(b) (DIVERSITY)**

TO THE HONORABLE JUDGE:

Defendant National Trust Insurance Company (“NTIC”), hereby petitions this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 for removal, on the basis of diversity jurisdiction, to the United States District Court for the Western District of Texas, San Antonio Division, of the action styled *White-Conlee Builders, LTD. v. National Trust Insurance Company*; Cause No. 2019-CI-07077, currently pending in the 438th Judicial District, Bexar County, Texas (the “State Court Case”), and in support thereof would respectfully show this Court as follows:

I.
FACTS

1. Plaintiff filed suit in the State Court Case on April 8, 2019, as the result of a dispute regarding a claim made under a commercial general liability insurance policy. Plaintiff alleges that it is an additional insured under a policy NTIC issued, and that NTIC breached the contract of insurance by failing to defend and indemnify Plaintiff in connection with claims by Boardwalk on Research, LLC in a suit styled Cause No. 2016-CI-10809; *1st Choice Heating & Air Conditioning, LLC v. United Technologies d/b/a International Comfort Products and Morrison Supply Company, LLC* (“Underlying Case”). Plaintiff’s Orig. Pet. at 2-3 (“Petition”). NTIC was served with the Petition and citation on April 15, 2019. NTIC timely filed its Original

Answer on May 6, 2019, and generally denied Plaintiff's allegations. A true and correct copy of all pleadings, process, orders and correspondence served in this action is attached hereto as Exhibit "A" and incorporated herein by reference.

2. Plaintiff alleges that NTIC breached the insurance contract and violated the Texas Insurance Code; Plaintiff also seeks a declaratory judgment on NTIC's duty to defend and indemnify. Petition at 3-5.

3. Plaintiff states that it seeks monetary damages in this action of at least \$200,000.00 but less than \$1,000,000.00. Pet. at 1. Accordingly, Plaintiff seeks damages in excess of \$75,000.00, exclusive of interest and costs.

4. Complete diversity exists between the Plaintiff and Defendant NTIC now as well as on the date of filing of the State Court Case. Plaintiff is a citizen and resident of the State of Texas. Pet. at 1. Defendant NTIC is an insurance company incorporated in the State of Indiana and its principal place of business is in Sarasota, Florida. NTIC is not a citizen of the State of Texas.

5. Plaintiff made a jury demand in the State Court case. Pet. at 5.

6. This is a civil action which may be removed to this Court by Defendant NTIC pursuant to the provisions of 28 U.S.C. §§ 1441(a) and 1332(a) in that it is between citizens of different states; it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs; and NTIC is not a citizen of the State of Texas.

II.

PROCEDURAL REQUIREMENTS

8. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice will be given to all adverse parties promptly after the filing of this Notice.

9 Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the District Clerk of Bexar County, Texas promptly after the filing of this Notice.

10. Attached hereto and incorporated herein are the following items:

Exhibit A: A true and correct copy of all pleadings, process, and orders served in this action.

Exhibit B: State Court docket sheet.

Exhibit C: List of all counsel of record.

Exhibit D: Index of all documents filed with the Court.

WHEREFORE, PREMISES CONSIDERED, Defendant National Trust Insurance Company requests that this action be removed from 438th Judicial District in Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT
NATIONAL TRUST INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2019 I electronically filed the foregoing with the Clerk of Court for the County Court of Law No. 10, Bexar County, Texas using the CM/ECF system for the County Court of Law No. 10, Bexar County, Texas which will send notification of such filing to the following:

Barry Snell
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Attorney for Plaintiff

/s/ Catherine L. Hanna
Catherine L. Hanna